

AMENDED IN SENATE APRIL 21, 2003
AMENDED IN SENATE MARCH 25, 2003
AMENDED IN SENATE MARCH 17, 2003

SENATE BILL

No. 219

Introduced by Senator Romero
(~~Coauthor: Senator Vasconcellos~~) (*Coauthors: Senators Soto and*
Vasconcellos)
(Coauthor: Assembly Member Chavez)

February 13, 2003

An act to amend Section 17004.7 of the Vehicle Code, relating to vehicles.

LEGISLATIVE COUNSEL'S DIGEST

SB 219, as amended, Romero. Public agency: liability: immunity.

Under existing law, a public agency employing peace officers that adopts a written policy on vehicular pursuits complying with specific standards is immune from liability for civil damages for personal injury to, or the death of, any person or damage to property resulting from the collision of a vehicle being operated by an actual or suspected violator of the law who is being, has been, or believes he or she is, or has been, pursued by a peace officer employed by the public entity in a motor vehicle.

This bill would also ~~require, as a condition to the application of the civil immunity, that the public agency implement the written policy described above. The~~ *provide that in a civil action for damages other than by the driver, or his or her accomplices, the civil immunity would only apply if a finding is made that the involved peace officer was complying with the public agency's adopted, and implemented written*

policy on vehicular pursuits, ~~as. The bill would provide that the finding is a question of fact for the trier of fact. However, the bill would also provide that the civil immunity would apply in an action brought by the person who was operating the motor vehicle being pursued, if at the time of the collision the public agency had adopted the written policy, regardless of whether that policy was implemented.~~

The bill would provide that nothing contained in these provisions affects the application of civil immunity provided to public employees under a related provision of existing law.

Vote: majority. Appropriation: no. Fiscal committee: yes. State-mandated local program: no.

The people of the State of California do enact as follows:

1 SECTION 1. The Legislature finds and declares the
2 following:

3 (a) Recent gruesome motor vehicle accidents involving police
4 pursuits in which very young children are innocent victims, and
5 appalling statistics regarding police pursuits throughout the nation
6 and especially in California, have generated extensive publicity
7 and intense public concern.

8 (b) According to the California Highway Patrol, there were
9 5,334 police pursuits in the state in the year 2000 and 21 percent
10 of those pursuits resulted in collisions. Ten percent of the collisions
11 caused significant injuries and 16 resulted in death.

12 (c) Los Angeles leads the nation in dangerous police pursuits,
13 and their number increased by more than 30 percent between the
14 years 2000 and 2001. In 2001, there were 781 police pursuits, the
15 equivalent to more than two per day, with 139 of those pursuits
16 involving injuries and six causing death. Sixty percent of the
17 police pursuits initiated by the Los Angeles Police Department
18 involved minor traffic violations, including missing license plates
19 or broken tail lights.

20 SEC. 2. Section 17004.7 of the Vehicle Code is amended to
21 read:

22 17004.7. (a) The immunity provided by this section is in
23 addition to any other immunity provided by law. The adoption of
24 a policy by a public agency pursuant to this section is discretionary.

25 (b) (1) A public agency employing peace officers that adopts
26 ~~and implements~~ a written policy on vehicular pursuits complying

1 with subdivision (c) is immune from liability for civil damages for
2 personal injury to, or the death of, any person or damage to
3 property resulting from the collision of a vehicle that is operated
4 by an actual or suspected violator of the law who is, has been, or
5 believes he or she is, or has been, pursued by a peace officer
6 employed by the public entity in a motor vehicle.

7 ~~(2) Except as provided in paragraph (3), the immunity~~

8 (2) *In a civil action for damages brought by a person, other*
9 *than the driver of the pursued vehicle or his or her accomplice, the*
10 *immunity provided by paragraph (1) applies only if a finding is*
11 *made pursuant to subdivision (e) that the involved peace officer in*
12 *a vehicular pursuit complied with the public agency's adopted and*
13 *implemented, written policy on vehicular pursuits.*

14 ~~(3) The immunity provided by paragraph (1) applies with~~
15 ~~regard to actions for civil damages brought by the person who was~~
16 ~~operating the motor vehicle being pursued, if at the time of the~~
17 ~~collision the public agency had adopted a policy that complies with~~
18 ~~subdivision (e), regardless of whether that policy had been~~
19 ~~implemented.~~

20 (c) If the public entity has adopted a policy for the safe conduct
21 of vehicular pursuits by peace officers, it shall meet all of the
22 following minimum standards:

23 (1) It provides that, if available, there be supervisory control of
24 the pursuit.

25 (2) It provides procedures for designating the primary pursuit
26 vehicle and for determining the total number of vehicles to be
27 permitted to participate at one time in the pursuit.

28 (3) It provides procedures for coordinating operations with
29 other jurisdictions.

30 (4) It provides guidelines for determining when the interests of
31 public safety and effective law enforcement justify a vehicular
32 pursuit and when a vehicular pursuit should not be initiated or
33 should be terminated.

34 (d) A determination of whether a policy adopted pursuant to
35 subdivision (c) complies with that subdivision is a question of law
36 for the court.

37 (e) A finding of whether a peace officer in a vehicular pursuit
38 complied with the public agency's adopted *and implemented*,
39 written policy on vehicular pursuits is a question of fact for the trier
40 of fact.

- 1 (f) Nothing in this section affects the application of civil
- 2 immunity provided a public employee under Section 17004.

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